

August 7, 2023

Electronic Submission

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

**Re: Suggested Amendments to FINRA Rules and Processes to Further Promote Capital Formation;
Comments in Response to FINRA Regulatory Notice 23-09**

Dear Ms. Mitchell:

This letter is submitted on behalf of the contributing authors named below¹ in response to the request for public comments by the Financial Industry Regulatory Authority, Inc. (“**FINRA**”) in Regulatory Notice 23-09 (“**Notice**”) on modifications to FINRA rules, operations or administrative processes that impact the capital-raising process in order to further foster capital formation.

We appreciate the opportunity provided by FINRA in the Notice to comment on proposals by FINRA to amend (1) Rules 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and 5131 (New Issue Allocations and Distributions); (2) Rule 2210 (Communications with the Public); and (3) the Capital Acquisition Broker (CAB) Rules. As FINRA has recognized in the Notice, amendments to these rules are expected to benefit the capital-raising process without reducing the protections afforded by the rules.

Our clients include both FINRA and non-FINRA members who are directly and indirectly affected by the reach of these rules. FINRA Rules 5130 and 5131 impose requirements on member firms to obtain information with respect to the beneficial interest of restricted and covered persons in investment funds to which the member firms sell new issues (generally, IPO shares). The cost of obtaining that information, which can be significant, is passed on to the fund managers, who are generally not FINRA members. As we discuss below, FINRA should allow private funds to use less costly means to certify that they are not the “accounts” of restricted persons or persons covered by Rule 5131.

The content standards of FINRA Rule 2210(d), particularly as they apply to the use of forecasts and projections and, (through FINRA interpretation) to presentations of prior related performance, impair the ability of fund managers who use member firms as placement agents to provide categories of information that sophisticated investors find useful and, in many cases, expect to receive. While it is generally understood that fund managers

¹ The opinions expressed herein are our own and not necessarily the opinions of Goodwin Procter LLP (“Goodwin”). The Goodwin letterhead has been included for identification purposes and does not indicate an endorsement by Goodwin. The authors thank summer associates Robert Binkowski and Jazmyne Barto for their assistance in preparing this letter.



may use forecasts, projections and prior related performance information in their own private placement memorandums (“PPMs”), (1) that exception is not stated in Rule 2210, (2) it is not clear when a PPM is deemed to be prepared by a member firm when, for example, registered representatives of the firm are also employees or principals of the fund manager responsible for preparing the PPM, and (3) fund managers want the freedom to communicate with prospective investors using slide decks and other materials containing forecasts, projections or prior related performance information. As we discuss, FINRA should permit the use of certain types of information with sophisticated investors that is currently prohibited and should clarify the application of the standards to materials prepared by fund managers and the management of other types of issuers.

Lastly, FINRA’s existing CAB Rules unnecessarily curtail CABs and associated persons of CABs from acting as intermediaries in connection with secondary transactions involving unregistered securities, engaging in private securities transactions (PSTs) in unregistered securities, providing services that would benefit certain investors, and being compensated in securities issued by a privately held CAB client, thus stymying capital-raising processes and, by extension, capital formation. We agree that FINRA’s proposal to modify these rules will facilitate the capital-raising process in a manner that preserves protections for investors and issuers and promotes capital formation. Specific comments are included below.

We would be pleased to discuss our comments with the staff.

Very Truly Yours,

Peter LaVigne
Peter W. LaVigne

Lauren Schwartz
Lauren A. Schwartz

Comments on FINRA Rules 5130, 5131, 2210 and the CAB Rules

1. Proposed Amendments to FINRA Rules 5130 and 5131

FINRA Rule 5130 prohibits the sale by underwriters of new issue securities to restricted persons, as defined in the rule, and FINRA Rule 5131 prohibits the allocation and distribution by an underwriter of new issue securities to the executive officers and directors of public companies and certain private companies with which the investment bank has or expects to have business (often referred to as “covered persons”), both subject to limited exemptions. These prohibitions apply to sales of new issue securities to the “accounts” of restricted or covered persons, such as private investment funds in which restricted or covered persons have beneficial interests that exceed the de minimis thresholds provided under the rules.² Thus, investment banks are required to obtain information from investment funds regarding whether fund investors are restricted or covered persons. They generally do this by requiring that the manager of the investment fund complete a questionnaire with information about whether its beneficial holders are restricted or covered persons. In order to be able to complete the questionnaires they receive, investment funds in turn must obtain information from their investors, also generally in the form of a questionnaire. If the investment fund buying new issues is a fund-of-funds, there may be three or more layers of questionnaires seeking the same information. Investment funds familiar with the rules will usually obtain questionnaires together with subscription agreements at the time of the initial investments. Experience indicates that it is much more difficult to obtain Rule 5130 and 5131 questionnaires from investors after they become interest holders. Investment funds and other entities that are unable to obtain information about whether their beneficial owners are restricted or covered persons may be treated as restricted or covered persons by default. This may occur even in cases where the fund manager has reason to believe that it is unlikely that its beneficial owners are restricted or covered persons.

Consequences Resulting from Obligations Under the Current Rules

Rules 5130 and 5131 create a considerable burden on investment funds and investment banks. Investment funds expend significant resources on collecting information from investors through new issue questionnaires to determine whether any of their beneficial owners are restricted or covered persons and, consequently, whether the funds are permitted to invest in new issue securities. The obligations imposed by these rules also result in negative consequences for investment banks that seek to sell new issue securities to investment funds that are unable to certify that they are not owned by restricted or covered persons. Costs to investment funds and investors, which are not themselves regulated by FINRA, include not only the time and efforts of their own employees, but legal fees to lawyers who advise with respect to completing and interpreting responses to questionnaires.

Rules 5130 and 5131 establish a static set of requirements that do not consider the risks posed by investment fund accounts. While Rules 5130 and 5131 include exemptions for funds in which the beneficial interests of restricted or covered persons do not exceed a de minimis threshold, these funds are still required to gather relevant information from their investors in order to determine whether they are over or under the de minimis thresholds.³ That said, there are exemptions under Rule 5130 that employ risk-based methods. For example, the exemption for common trust funds is available if, among other things, the fund does not limit beneficial interests in the fund principally to the trust accounts of restricted persons.⁴ There is a similar exemption for insurance company

² Rule 5130(a)(1),(a)(2), and (c)(4); Rule 5131(b).

³ Rule 5130(c)(4); Rule 5131(b)(2).

⁴ Rule 5130(c)(2).

general, special or investment accounts where the insurance company does not limit the policyholders whose premiums fund the account principally to restricted persons.⁵

Alternative Method for Gathering and Analyzing Information

We suggest that FINRA permit investment banks to rely on information provided by fund managers based on their knowledge and good faith belief about fund investors, taking into consideration the likelihood of ownership by restricted or covered persons. Introducing a risk-based framework to the de minimis exemptions provided under the rules would create efficiencies in the capital-raising process for investment banks and investment funds. It would also lessen the expense associated with rule compliance in circumstances where there is a low probability of ownership by restricted and covered persons (e.g., foreign funds).

FINRA allows members to adopt risk-based systems to comply with certain FINRA rules. For example, members are permitted to apply risk-based methodologies in the development and implementation of their compliance programs (e.g., Rule 3310 (Anti-Money Laundering Compliance), Rule 3120 (Supervisory Control System), and Rule 3110 (Supervision)) and a risk-based approach to documenting compliance with FINRA Rule 2111 (Suitability) and SEC Regulation Best Interest.⁶ FINRA members, and investment accounts providing information to members, should similarly be given the option to adopt a risk-based approach to compliance with Rules 5130 and 5131. In practice, this means that where a member firm determines that a fund poses anything other than a low risk, it may opt to obtain more detailed information with respect to its beneficial ownership by restricted and covered persons. We believe that amending the existing rigid framework to accommodate risk-based methods will also promote capital formation because it may invite more market participants.

As a means to accomplish this goal, we suggest that FINRA adopt new Supplementary Material to Rule 5130 in substance as follows:

.02 Risk-based Diligence for De Minimis Exemption. A member or a person associated with a member may rely on information regarding the beneficial ownership of a collective investment account provided by the fund's manager based on the manager's knowledge and good faith belief about fund investors, taking into consideration the likelihood of ownership by restricted persons. Where a member or a person associated with a member reasonably believes that there is a low probability that beneficial interests are held by restricted persons, the member or person associated with the member may purchase, sell, or cause to be sold, a new issue to such account; provided that if a member or a person associated with a member employing risk-based principles has reason to believe that the account poses anything other than a low risk, it must obtain more detailed information with respect to the fund's beneficial ownership by restricted persons in order to qualify for the exemption. A member may rely upon a written representation obtained from a manager authorized to represent the beneficial owners of the account that the beneficial interests of restricted persons in the account do not exceed the de minimis threshold.

Similar language can be inserted into existing Supplementary Material .02 to Rule 5131.

⁵ Rule 5130(c)(3).

⁶ Note to draft: where do the suitability rule and Reg BI permit risk-based approaches. If it's not clear, let's delete this example.

Issuer-Directed Securities

The prohibition in Rule 5130 does not apply to the sale of new issues that are directed by the issuer or certain other persons to restricted persons, except that they may not be directed to an account in which certain persons who are restricted by reason of being associated with a broker or an immediate family member of such a person, unless they are employed by the issuer.⁷ This provision significantly reduces the utility of the exemption, because, again, it requires the investment fund or account to know whether it has any investors who fall into those categories. We believe that the purposes of the rule would be satisfied by amending the condition in Rule 5130(d)(1)(B) to permit an account to receive issuer-directed new issues if it was not formed primarily for the purpose of investment by the categories of restricted persons currently identified in that paragraph.

2. Proposed Amendments to FINRA Rule 2210 Related to Forecasts, Projections and Prior Related Performance

Two of the core tenets underlying Rule 2210(d)(1) are that member firm communications must be fair and balanced and not misleading. To further these principles, Rule 2210 prohibits member communications from including predicted or projected performance, implying that past performance will recur, or making any exaggerated or unwarranted claim, opinion, or forecast, subject to limited exceptions.⁸

FINRA has published guidance in regulatory notices and interpretations, including information with respect to the use of IRR, reasonable forecasts of issuer operating metrics, and related performance, which have not been codified.⁹ We have also observed inconsistencies between FINRA Rule 2210 and the SEC's Marketing Rule, which warrant clarification. We respectfully propose the following five amendments to Rule 2210 in order to eliminate potential uncertainties concerning compliance with the rule and to allow issuers and members to provide investors with information they want and need to make investment decisions, thereby enhancing the capital-raising process and promoting capital formation.

The rule should be amended to permit the use of forecasts and projections in material for institutional investors and qualified purchasers.

In Regulatory Notice 17-06 (“**Notice 17-06**”), FINRA proposed amending Rule 2210 to include an additional exception to the prohibition on the use of projections in member communications “for customized hypothetical investment planning illustrations that include projected performance of an asset allocation or other investment strategy.”¹⁰ While this is a welcome exception, we concur with the comments that FINRA received on the proposal that urge FINRA “to permit projections of performance of individual securities, particularly with respect to institutional communications.”¹¹ We recognize that FINRA is seeking to improve capital formation and, in furtherance of this goal, is preparing to file proposed amendments with the SEC that will bolster the flow of information. We strongly believe that Rule 2210 should be amended to permit the use of forecasts and projections in communications with institutional investors and qualified purchasers. As FINRA notes in Notice 17-06, “[t]he general prohibition against performance projections is largely intended to protect retail investors from

⁷ Rule 5130(d)(1)(B).

⁸ Rule 2210(d)(1)(F).

⁹ *Regulatory Notice 20-21*, FINRA (July 1, 2020), <https://www.finra.org/rules-guidance/notices/20-21>; FINRA, Interpretive Letter to Clair Pagnano, K&L Gates LLP (2017), <https://www.finra.org/rules-guidance/guidance/interpretive-letters/interpretive-letter-clair-pagnano-kl-gates-llp>.

¹⁰ *Regulatory Notice 17-06*, FINRA (February 10, 2017), <https://www.finra.org/rules-guidance/notices/17-06>.

¹¹ *Regulatory Notice 23-09*, FINRA (May 9, 2023), <https://www.finra.org/rules-guidance/notices/23-09>.

performance projections of individual investments.”¹² The risk presented by the use of forecasts and projections of performance with sophisticated investors is mitigated by their investment experience and the clear and prominent disclosures that accompany these communications. Forecasts and projections are useful tools that can inform institutional investors and qualified purchasers about potential investments and encourage capital formation.

Additionally, as FINRA acknowledges in Notice 17-06, investment advisers are permitted to use performance projections in communications as long as they comply with the antifraud provisions of the Investment Advisers Act of 1940 (the “**Advisers Act**”). The disparate requirements between investment advisers and brokers not only complicates regulatory oversight, but the capital-raising process for dually-registered firms and representatives who are permitted to provide advisory clients with communications that include performance projections. As we further discuss below, it also puts certain brokers at a competitive disadvantage, thereby inhibiting capital formation.

The rule should be amended to include (a) circumstances when forecasts of performance in operating entities are permitted and (b) an explanation regarding when targeted returns are considered forecasts or projections, and when they are permitted in connection with operating entities.

In Notice 20-21, FINRA indicates that the use of reasonable forecasts of issuer operating metrics is not inconsistent with Rule 2210. FINRA includes several examples of reasonable forecasts of issuer operating metrics in the notice, including forecasted sales, revenues or customer acquisition numbers. However, FINRA has not codified this guidance. We suggest that FINRA prescriptively describe the circumstances under which forecasts in operating entities are permitted in Rule 2210.

Notice 20-21 also includes a list of factors for member firms to take into consideration when developing and using forecasts of issuer operating metrics. Notably, this guidance does not plainly prescribe when targeted returns are considered forecasts or projections, and when they are permitted in connection with operating entities. We further suggest that Rule 2210 be amended to set forth when targeted returns are permissible as an issuer operating metric and when they may be deemed prohibited projections. The rule should also include factors for member firms to consider in making this determination.

Without assurances that rule codification provides, member firms will be less inclined to use reasonable forecasts of issuer operating metrics, which could potentially impede capital formation. As FINRA notes, these metrics convey valuable information with respect to the plans and financial positions of issuers. Member firms are more likely to share this information with prospective investors if the requirements and parameters associated with their use are clearly defined. The increased use of reasonable forecasts of issuer operating metrics in member communications will equip investors with important information and could, in turn, promote capital formation.

We also note that putting the requirements into a rule, rather than in FAQs, regulatory notices or other guidance, will offer the opportunity for comment on the rule proposals. We have found the FINRA staff to be very responsive to requests for clarification outside of the rulemaking process, for which we commend the staff, but the rulemaking process will open the opportunity to comment to a larger group of interested persons.

¹² *Regulatory Notice 17-06*, FINRA (February 10, 2017), <https://www.finra.org/rules-guidance/notices/17-06>.

The rule should be amended to include an explanation regarding when, and under what circumstances, IRR is permitted when discussing performance.

FINRA sets forth guidance related to the use of IRR in Notice 20-21 and its FAQs about advertising regulation. In Notice 20-21, FINRA explains circumstances where it interprets the use of IRR in retail communications to be consistent with Rule 2210. Retail communications are permitted to include IRR for (1) completed investment programs, (2) a specific investment in a portfolio when the IRR is the actual performance of the holding, and (3) investment programs with ongoing operations that include realized and unrealized holdings, so long as the IRR is calculated in compliance with Global Investment Performance Standards (GIPS) and includes GIPS-required metrics, provided that they also comply with the content standards set forth in Rule 2210.¹³ “IRR presented for privately placed new investment programs that have no operations or that operate as a blind pool is a projection prohibited by FINRA Rule 2210(d)(1)(F).”¹⁴ Rule 2210 does not contain the guidance included in Notice 20-21 or FINRA’s FAQs.

As a result, member firms often question when they are permitted to use IRR in retail communications. For this reason, we respectfully request that Rule 2210 be amended to include an explanation regarding when, and under what circumstances, IRR is permitted when discussing performance, codifying the guidance included in Notice 20-21 and the FAQs. We also encourage FINRA to make clear that, consistent with Rule 2210, it permits communications to not only include the value of assets that have been sold, but reasonable valuations of assets still in a portfolio, subject to the content standards in Rule 2210 and the aforementioned guidance. Obtaining clarity regarding the proper use of IRR in retail communications will benefit all market participants. With this clarification, member firms will be more free to include IRR in retail communications and investors will be provided with an additional data point by which to base their investment decisions, thereby improving the capital-raising process and encouraging capital formation.

The rule should be amended to include a provision that states the circumstances under which the use of related performance is prohibited or permitted.

We recognize that FINRA has issued interpretive letters concerning the use of related performance in institutional communications. In the letter to Clair Pagnano, K&L Gates, it states that “the presentation of related performance information, other than the performance of a predecessor private account or fund [as further described therein], in communications used with retail investors does not comply with FINRA Rule 2210(d).”¹⁵ The interpretive guidance provided by FINRA’s Office of General Counsel (OGC) staff is not binding. Moreover, the written response only addresses issues raised based on the specific set of facts presented. FINRA’s longstanding view with respect to the use of related performance information has not been codified. We firmly believe that FINRA’s position should be included in Rule 2210. Furthermore, the rule should identify circumstances where the use of prior related performance is permitted. For example, prior related performance information is currently permitted in communications to institutional investors, and to qualified purchasers investing in funds exempt from registration as investment companies pursuant to section 3(c)(7) of the Investment Company Act of 1940 (“**Investment Company Act**”). We urge FINRA to widen the exception to permit the use of prior related performance information with any fund that requires all investors to be qualified purchasers as defined in section 2(a)(51) of the Investment Company Act regardless of whether the fund itself is exempt under Section 3(c)(7).

¹³ Global Investment Performance Standards for Asset Owners, CFA Institute (2020), <https://www.cfainstitute.org/-/media/documents/code/gips/gips-standards-handbook-for-asset-owners.pdf>.

¹⁴ FINRA FAQ Q. D.6.1. Q., <https://www.finra.org/rules-guidance/guidance/faqs/advertising-regulation#d6>.

¹⁵ FINRA, Interpretive Letter to Clair Pagnano, K&L Gates LLP (2017) <https://www.finra.org/rules-guidance/guidance/interpretive-letters/interpretive-letter-clair-pagnano-kl-gates-llp>.

This would include funds exempt under sections 3(c)(1) (100 or fewer holders) and 3(c)(5) (engaged in the business of making and buying loans). The establishment of conditions and parameters regarding the use of prior related performance will promote its use, and, in so doing, may promote capital formation among sophisticated purchasers.

The rule should be amended to reconcile inconsistencies with the SEC’s Marketing Rule and third-party prepared materials.

The SEC’s Marketing Rule permits registered investment advisers to use key projections and estimates in their marketing materials. To date, FINRA has not confirmed whether it permits placement agents to distribute promotional materials containing projections, even if they are identical to the materials used by investment advisers. As discussed at length above, the use of projected performance in member firm communications is generally prohibited by Rule 2210. This inconsistency between SEC and FINRA rules results in investment advisers creating special versions of their marketing materials for use by FINRA members. It also puts placement agents and their affiliates at a competitive disadvantage because they are unable to distribute valuable information to investors, which investment advisers can do, when marketing unregistered securities. This can result in disintermediation of registered brokers in circumstances where the use of registered brokers might otherwise be desirable. For example, we are aware of circumstances where private fund groups explored registering an affiliated entity as a broker to sell their securities and subsequently elected not to do so because they would thereafter not be able to use forecasts, projections and target returns, except in limited circumstances. Similarly, some fund groups that have arranged to have employees become registered on an independent contractor basis with a registered broker have found that the application of Rule 2210(d) to material distributed by their registered employees has been disruptive to their business. In order to create efficiencies in the capital-raising process, balance the scales between placement agents and investment advisers, and promote capital formation, we urge FINRA to clarify whether placement agents can use marketing materials prepared by issuers that include projections.

FINRA has also observed that issuer-prepared private placement memoranda (PPMs) may include retail communications.¹⁶ We respectfully request that FINRA amend the rule to clarify that the prohibition on projections does not apply to information contained in PPMs. In so doing, FINRA should also identify what materials it does not consider to be a part of a PPM (e.g., exhibits that look like marketing decks).

3. Proposed Amendments to CAB Rules

FINRA requested comments on proposed amendments to the CAB Rules on January 30th, 2020.¹⁷ First, FINRA proposed an amendment that would allow CABs to register as investment advisers to provide advisory services to institutional investors. Second, FINRA would expand the definition of an “institutional investor” to include “knowledgeable employees.” Third, FINRA would allow CABs more freedom to act as intermediaries under certain conditions. Fourth, FINRA would codify a staff interpretation that CABs may be compensated with securities issued by a privately held CAB client, as opposed to cash, in certain circumstances. Finally, FINRA would implement a new rule whereby associated persons could invest in unregistered securities, subject to disclosing the investments to the CAB with which they are associated. While initial comments were received in response to Regulatory Notice 20-04, these proposed amendments have not been adopted. We offer the following

¹⁶ *Regulatory Notice 20-21*, FINRA (July 1, 2020), <https://www.finra.org/rules-guidance/notices/20-21>.

¹⁷ *Regulatory Notice 20-04*, FINRA (Jan. 30, 2020), <https://www.finra.org/rules-guidance/notices/20-04>.

comments in response to, and support of, FINRA's proposed amendments to further promote capital formation. Although we do not discuss it below, we also support the proposal to amend the institutional investor definition.

Investment Advisor Activities

CABs are presently prohibited from registering as investment advisers. Since associated persons of a CAB who become associated persons of an investment adviser would be regarded as engaging in private securities transactions ("PSTs"), which are prohibited for associated persons of CABs, those individuals effectively cannot act as investment advisers. Permitting CABs to register as investment advisers would allow them to expand their services to existing customers, thereby enhancing the capital-raising process. CABs may make recommendations to institutional investors and be paid on a transactional basis. As investment advisers, they would also be able to provide investment advice for a fee based on assets under management, which more closely aligns the interests of the adviser with the interests of the client.

In addition, we strongly encourage FINRA to make clear in the rulemaking that CABs are not prohibited from having an affiliated investment adviser that serves a broader client population. Specifically, the amended rule should permit registered representatives of a CAB to register with investment advisers that have institutional or retail investor clients, notwithstanding the prohibition on PSTs.

Secondary Transactions

We are in full support of FINRA's proposed amendment allowing CABs to act as placement agents for secondary transactions involving unregistered securities. In fact, we have requested this precise change in meetings with FINRA staff. In the fund context, a CAB acting as placement agent is likely to be in the best position to find a buyer for an interest holder who wants to sell the unregistered securities that were first introduced to the interest holder by the CAB. Rather than being able to capitalize on CABs' position and knowledge of the market, currently, interest holders must use other intermediaries to find suitable buyers for their shares, or look for buyers themselves, markedly reducing the ease of access to selling unregistered securities. We understand that the limitations on secondary market activities by CABs has discouraged some persons who want to act as private fund placement agents from registering as CABs, opting for the more expensive and burdensome registration and compliance requirements of a full FINRA member firm.

We also strongly encourage FINRA to consider expanding this rule to allow CABs to act as agents for secondary transactions of unregistered securities where the CAB did not previously act as placement agent for the securities. Institutional investors often have other unregistered securities, acquired elsewhere, that they wish to sell at the same time. While the CAB may not have acted as a placement agent for the unregistered securities, they may know other investors that could be interested in buying them. Under these circumstances, the CAB would still be required to conduct the same due diligence as any other broker would with respect to the investment. Thus, broadening the rule would further increase accessibility and efficiency within the market among institutional investors for unregistered securities, and streamline and promote the capital-raising process.

Compensation

We also fully endorse the proposed amendment to codify FINRA's staff interpretation allowing CABs to receive securities issued by privately held CAB clients. This amendment will, among other things, help align the interests of CABs with the interests of their customers who purchase in private offerings, and promote capital formation. We note the similarity with Regulation Crowdfunding, which permits broker-dealers and funding portals to receive a financial interest in an issuer offering or selling securities through the platform of an intermediary, subject to certain conditions. These interests similarly serve to align the interests of funding portals with investors



in crowdfunding offerings, and provide the investors with a sophisticated “champion” to represent them in negotiations with subsequent investors.

Personal Investments

We are in full support of proposed Rule 321, which, among other things, will permit associated persons of CABs to invest in unregistered securities. Under FINRA Rule 3280, applicable to regular FINRA member brokers, an associated person is not permitted to engage in a PST without first providing written notice to the FINRA member broker and obtaining approval or acknowledgement in connection with the transaction. A PST includes a transaction in which an associated person purchases securities in a private offering for his or her own account. Under existing CAB rules, associated persons of a CAB are prohibited from engaging in PSTs. We see no reason for this prohibition in light of the established regulatory framework that exists to oversee PSTs. Given the financial sophistication of associated persons of CABs, providing these individuals with the ability to invest in unregistered securities will further promote capital formation.